

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

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|--|---|------------------------------|
| UNITED STATES OF AMERICA, |) | 8:08CR359 |
| Plaintiff, |) | |
| |) | |
| v. |) | USM No: 22576-047 |
| |) | |
| GERARD A. KIMSEY, |) | <u>Deborah D. Cunningham</u> |
| Defendant. |) | Defendant's Attorney |
| Date of previous judgment: April 8, 2009 |) | |

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon the unopposed motion of the defendant under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the unopposed motion (Filing No. 49) is GRANTED and the defendant's previously imposed sentence of 235 months imprisonment (as reflected in the last judgment issued) is reduced to 188 months. The Clerk is directed to deliver a copy of this Order to the U.S. Marshal.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

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| Previous Offense Level: <u>33</u> | Amended Offense Level: <u>31</u> |
| Criminal History Category: <u>VI</u> | Criminal History Category: <u>VI</u> |
| Previous Guideline Range: <u>235</u> to <u>293</u> months | Amended Guideline Range: <u>188</u> to <u>235</u> months |

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

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The reduced sentence is within the amended guideline range.

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The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.

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Other (explain):

III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated April 8, 2009, shall remain in effect.

IT IS SO ORDERED.

Dated this 4th day of April, 2012

Effective Date: April 4, 2012

s/Laurie Smith Camp
Chief United States District Judge